107 **IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

CWP-26624-2022 (O&M)
Date of Decision: **August 02, 2023**

SANDEEP SINGH AND ANOTHER ...... Petitioners

Versus

AUTHORIZED OFFICER, PNB HOUSING FINANCE LTD. AND ANOTHER ..... Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE RITU TAGORE

Present: Mr. Krishan Kanha, Advocate for
Mr. Narinder Lucky, Advocate for the petitioners.

Mr. D.K. Singal, Advocate for the respondents.

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<u>LISA GILL, J.</u>

1. Prayer in this petition is for quashing notice dated 07.10.2022 (Annexure P2) under Section 13(4) of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short – 'SARFAESI Act') .

2. Learned counsel for the petitioners submits that petitioners are ready and willing to settle the account with the respondents.

3. It is to be noted at this stage that respondent No. 1 is a private Non-Banking Financial Company, thus, no ground is made out for any interference in exercise of jurisdiction under Article 226 of the Constitution of India. Gainful reference in this regard can be made to the judgment of the Hon'ble Supreme Court in **Phoenix ARC Private Limited versus Vishwa Bharti Vidya Mandir and others, 2022 (1) RCR (Civil) 888,** wherein it has been held as under:-

> " Even otherwise, it is required to be noted that a writ petition against the private financial institution - ARC - appellant herein under Article 226 of the Constitution of India

> against the proposed action/actions under Section 13(4) of the SARFAESI Act can be said to be not maintainable. In the present case, the ARC proposed to take action/actions under the SARFAESI Act to recover the borrowed amount as a secured creditor. The ARC as such cannot be said to be performing public functions which are normally expected to be performed by the State authorities. During the course of a commercial transaction and under the contract, the bank/ARC lent the money to the borrowers herein and therefore the said activity of the bank/ARC cannot be said to be as performing a public function which is normally expected to be performed by the State authorities. If proceedings are initiated under the SARFAESI Act and/or any proposed action is to be taken and the borrower is aggrieved by any of the actions of the private bank/bank/ARC, borrower has to avail the remedy under the SARFAESI Act and no writ petition would lie and/or is maintainable and/or entertainable. Therefore, decisions of this Court in the cases of **Praga Tools Corporation v. Shri C.A. Imanual, (1969) 1 SCC 585** and **Ramesh Ahluwalia v. State of Punjab, (2012) 12 SCC 331** relied upon by the learned counsel appearing on behalf of the borrowers are not of any assistance to the borrowers."

4. Learned counsel for the petitioners is unable to point out any ground for interference.

5. Accordingly, this writ petition is dismissed with liberty to the petitioners to avail remedy/remedies available to them in accordance with law. Needless to say, parties are at liberty to arrive at any mutual settlement.

6. Pending application(s), if any, stands disposed of.

(LISA GILL)
JUDGE

(RITU TAGORE)
JUDGE

August 02, 2023
rts

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No